

## **TAB 6**

### **DELL'S EXPERT WITNESSES**

1. Mr. Steve Thomas
2. Mr. John LaRocca
3. Mr. Jason Fensterstock
4. Mr. Richard Whalen
5. Mr. Dean Vomero (may call)
6. Mr. Francis X. Devine (may call)
7. Mr Michael L. Newsom (may call)
8. Inacom's expert witnesses (to the extent such witnesses are permitted to offer testimony in this matter, may call)
9. Hewlett-Packard Company's expert witnesses (to the extent such witnesses are permitted to offer testimony in this matter, may call)

**IN THE UNITED STATE DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	
	)	Chapter 11
INACOM CORP., <u>et al.</u> ,	)	
	)	Case No. 00-2426 (PJW)
Debtors.	)	
	)	
	)	
INACOM CORP., on behalf of affiliated	)	
Debtors,	)	Civil Action no. 04-582-GMS
	)	Adv. No. 02-3499
Plaintiff,	)	
	)	
v.	)	
	)	
DELL COMPUTER CORPORATION, <u>et al.</u>	)	
	)	
Defendants.	)	
	)	

**PLAINTIFF'S OBJECTIONS TO DELL'S EXPERT WITNESS**

As set forth in Plaintiff's motions *in limine* filed contemporaneously with this Final Pre-Trial Order, Plaintiff objects to the testimony and qualifications of Steven H. Thomas and John L. LaRocca.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 11
INACOM CORP., <u>et al.</u> ,	)	
	)	Case No. 00-2426 (PJW)
Debtors.	)	
	)	
INACOM CORP., on behalf of affiliated	)	
Debtors,	)	Civil Action no. 04-582-GMS
	)	Adv. No. 02-3499
Plaintiff,	)	
	)	
v.	)	
DELL COMPUTER CORPORATION,	)	
<u>et al.</u> ,	)	
	)	
Defendant.	)	
	)	

**DEFENDANT'S STATEMENT OF QUALIFICATIONS OF EXPERT WITNESSES**

Defendant, Dell, Inc. (f/k/a Dell Computer Corporation) ("Dell"), files its Statement of Qualifications of Expert Witnesses:

**1. STEVEN H. THOMAS: ACCOUNTING EXPERT ON ORDINARY COURSE & NEW VALUE DEFENSES.**

Mr. Steven H. Thomas holds a Bachelor of Business Administration in Accounting from Southern Methodist University in Dallas, Texas. He is a Certified Public Accountant and a Certified Fraud Examiner with related memberships in the American Institute of Certified Public Accountants, the Texas Society of Certified Public Accountants and the Association of Certified Fraud Examiners. He is also a member of the Business Valuation and Forensic Litigation Services sections of the American Institute of Certified Public Accountants.

Mr. Thomas is a member of the accounting firm of Lain, Faulkner & Co. For most of the last thirty years, he has been engaged in the practice of public accountancy. For the last twenty-two years his practice has been centered around providing

professional accounting and consulting services in bankruptcies and other financially troubled company situations. Specifically, since 1982 he has represented Trustees, Debtors, Debtor-in-possession, Examiners, Creditor's Committees, and Secured Creditors in numerous bankruptcy proceedings. He has also served as an Examiner in a Chapter 11 bankruptcy proceeding and as a Receiver in State Court. Currently, he is the head of his firm's avoidance action practice area. Over the past ten years, he has supervised the accounting analysis of approximately 3,000 preference cases, having aggregate payments during the preference period of over \$3000,000,000.00. As a result, he has obtained a working familiarity with the review and assessment of potential claims for recoveries of preferential payments and is familiar with the customs, practices and standards of care that are expected to be used by the parties in determining whether or not such claims have merit and warrant prosecution. He has also learned how these customs, practices and standards of care are, or should be, applied in real life situations.

Mr. Thomas's resume is attached hereto as Exhibit "A".

**2. JOHN LAROCCA: EXPERT ON INDUSTRY STANDARDS AND ORDINARY BUSINESS TERMS AND PAYMENTS**

Mr. John LaRocca has studied marketing at LaSalle University. He has also obtained a certification in Team Management from the Kellogg School, Northwestern University. He has also been trained in: (1) Credit Analysis and the Collections Process by Dunn & Bradstreet Corporation; (2) Credit & Collection Management by the Household Finance Company; (3) Financial Statement Analysis by Robert Morris Associates; (4) Quality Management by both Rummel-Brache and Hewlett Packard; (5) Team Development by Bentonville Associates; and (6) Process and Performance Testing at Hewlett Packard for twenty-two years.

Mr. LaRocca has been employed in various credit related positions for more than thirty years. Since 2001, he has been a partner of Quote to Cash Solutions. His experience at Quote to Cash Solutions includes ten other engagements as an expert witness.

Before working at Quote to Cash Solutions, he was employed at LeasingX, Inc. as President and CEO. At LeasingX, his responsibilities included: (1) providing subject matter expertise; (2) directing the development of inbound order and auction systems; (3) accepting customer bids/order; (4) invoicing; and (5) recruiting lessors and vendors.

Prior to his employment at Leasing X, he was a consultant for both Gateway Computers and the merger between Allied Signal and Honeywell in the area of defining and delivering improved credit, collections and accounts receivable services.

Prior to this consulting, He was employed by Tokai Financial Services who was then purchased by De Lange Landen Financial Services in the position of Senior Vice-president of Operations and Information Systems. His duties included preparing the company for either an initial public stock offering or sale by strengthening the process management capabilities or order acceptance, verification, credit review and approval, booking, funding, collections, and asset management. He also developed online lease application entry, inquiry and credit decisioning tools.

Prior to this employment, he was employed by Hewlet-Packard Company ("HP") for twenty-two years. During the last year of his employment at HP, he was the Global Sales Manager for the MicroAge/Pinacor distribution account. In the proceeding twelve years he was HP's Global and Americas Credit Manager where he was responsible for company-wide accounts receivable investment. His responsibilities included: (1) managing the approval and extension of credit terms; (2) collections; and (3) cash application of tens of billions of dollars of annual sales of computer products and peripherals to all industries and hundreds of millions of dollars of annual sales of computer products and peripherals to the healthcare industry. His duties also included: (1) developing and ongoing responsibility for Floor-Plan Financing with five financial institutions for both domestic and international distribution customers. Prior to this, he was both the Computer Lease Marketing Manager and Commercial Contracts Sales Manager for two years. Before to that he was a commercial computer sales representative for one year. Prior to that, he was the Eastern U.S. Regional Leasing and Contracts Manager. His duties in this position included negotiating: (1) equipment leases; and (2) Software Supplier and Value Added Reseller agreements including payment terms.

Mr. LaRocca's management experience also includes positions at: (1) Phoenix Leasing, Inc. as Vice-President of Lease and Marketing and President of their Micro Systems Leasing division; (2) FTI, Inc. as the Credit Manager; (3) Bayuk Cigars as an Assistant Credit Manger; and (4) Household Finance Company as an Assistant Credit Manager.

Mr. LaRocca has been a member of Dunn and Bradstreet's Advisory Group since 1985. He was also a member of the Computer Technology Industry Association finance committee from 1993 through 1998. He was also a member of the Credit Research Foundation in the 1990's though 1997 and has been a consultant to the Credit Research Foundation since 2000.

**3. JASON F. FENSTERSTOCK: EXPERT ON ENTERPRISE VALUATION USING DISCOUNTED CASH FLOW ANALYSIS AND BALANCE SHEET REVIEW AND VALUATION AND BENCHMARKING**

Jason F. Fensterstock graduated Cum Laude with a degree in Economics/Government from Bowdoin College in Brunswick, Maine in 1975. He also holds a graduate degree in Finance/Accounting from Columbia University Graduate School of Business in New York, New York. While attending Columbia University he was a member of the Beta Gamma Sigma honor society and graduated with Dean's List honors. He also holds a law degree from Columbia University and was the President of the Columbia chapter of the Phi Delta Phi legal honor society.

Beginning in 1996, Mr. Fensterstock was a member of Sasco Hill Advisors, Inc. His responsibilities include financial restructuring and related activities. Between 2004 and 2005, he also worked at Duff & Phelps, LLC as a Restructuring Services Team Leader and Managing Director. In May 2005, Mr. Fensterstock joined Alix Partners, L.L.C.

Between 1987 and 1996, he worked at Dillon, Read & Co. Inc. During this time he was the Senior Vice President—Corporate Finance: Financial Restructuring Group (1988-96) and Senior Vice President—Corporate Finance: Arbitrage Fund where he was responsible for investing in distressed companies.

From 1986 to 1987, he was the Vice President—Corporate Finance: Financial Restructuring Group at Shearson Lehman Brothers Inc. While there his responsibilities included the representation of both debtors and creditors, domestic and foreign, in out-of-court restructurings and exchange offers and in Chapter 11 bankruptcy reorganizations.

From 1982 to 1986 he was an associate in the corporate reorganization (Bankruptcy) and bank finance sections at Shearman & Sterling. While there, his responsibilities included representation of both debtors and creditors, domestic and foreign, in out-of-court restructurings and in Chapter 11 bankruptcy reorganizations.

From 1980 to 1982 he was an associate in the business reorganization (Bankruptcy) section of Weil, Gotshal & Manges. While there, his responsibilities included representation of both debtors and creditors in out-of-court restructurings and in court reorganizations and liquidations.

Mr. Fensterstock's resume is attached hereto as Exhibit "B".

**4. RICHARD A. WHALEN:****EXPERT ON ENTERPRISE VALUATION USING  
COMPARABLE COMPANY AND COMPARABLE  
TRANSACTION ANALYSIS**

Mr. Whalen has over thirteen years of experience in the identification, valuation, and determination of the remaining life of intangible assets, including most customer, marketing, contract and technology related intangible assets. He has extensive experience in the estimation of royalty rates for and the valuations of certain forms of intellectual property, namely trade names and trademarks, proprietary processes, formulas and technology and the like. He has performed valuations of intellectual property and marketing-based intangible assets for a variety of purposes including litigation, joint venture consulting, allocation of purchase price, etc.... Mr. Whalen also has over thirteen years of experience in valuing business enterprises.

Mr. Whalen has performed numerous purchase price allocations and business valuations for acquisitions of companies and has experience with SEC expectations and procedures regarding purchase price allocations and concerning the valuation of intellectual property. Mr. Whalen is well versed with current FAS 141 and 142 statements regarding business combinations and impairment testing.

Mr. Whalen holds a BBA in Finance and Accounting from the University of Notre Dame (1986) and an MBA in Finance and Statistics from the University of Chicago (1990). Mr. Whalen is a former two term Alderman for the City of Park Ridge and is presently serving on the Board of Directors of the Economic Development Corporation of Park Ridge. He is an internal and external speaker on various valuation subjects, including the valuation of intellectual property.

Mr. Richard A. Whalen has worked at Duff & Phelps, L.L.C. as a Managing Director of the Valuation Group since 2001. In this time he has been actively involved in the selling, managing and production of a variety of valuation related projects for publicly and privately held companies. He has concentrated in the valuation of intellectual property for litigation, donation, and planning purposes as well as purchase price allocations, including valuations of intangible assets and regulatory compliance as it relates to these types of valuation engagements.

Prior to this, Mr. Whalen worked at PricewaterhouseCoopers, L.L.P. from 1990 to 2001, where he was the Director of the Corporate Value Consulting Group. During this time he was engaged in all phases of valuation consulting including estimating value for mergers and acquisition, tax and financial reporting purposes, fairness opinions, restructuring, litigation and donation. He also obtained specialization in allocations of purchase price and valuation of intangible assets, with a focus on the financial services industry. He also developed curriculum and taught classes in purchase price

allocations, valuations of intellectual property and other intangible assets and valuations of businesses.

Prior to this, Mr. Whalen worked at Horizon Federal Savings Bank from 1986 to 1989 as an Analyst in the Direct Investment Group. While there, he assisted in and managed accounting and finance projects associated with the Bank's real estate development endeavors. He also worked with general contractors in partnership with Bank.

Mr. Whalen's resume is attached hereto as Exhibit "C".

## Stephen H. Thomas

Mr. Thomas has developed strong expertise in forensic, bankruptcy and litigation accounting, through more than three decades of experience in industry and public practice. He is skilled in analyzing avoidance transactions, searching for hidden assets, and performing cash and asset tracings. As head of LainFaulkner's preference practice area, he spearheaded the development of the firm's proprietary preference analysis process and software. This powerful system enhances preference evaluation by integrating accounting data with the relevant legal concepts and generating evaluations of common statutory defenses.

Mr. Thomas has served in Court-appointed roles as examiner and receiver and as an expert witness. He has worked on behalf of debtors, creditors, and trustees or fiduciaries in numerous industries. Mr. Thomas has demonstrated his abilities in the reconstruction of books and records as necessary to analyze complex issues, and in his clear presentation of difficult concepts during expert witness testimony.

Mr. Thomas is a Certified Public Accountant and a Certified Fraud Examiner with related memberships in the American Institute of Certified Public Accountants, the Texas Society of Certified Public Accountants and the Association of Certified Fraud Examiners. He is also a member of the Business Valuation and Forensic and Litigation Services of the American Institute of Certified Public Accountants. Mr. Thomas holds a Bachelor of Business Administration in Accounting from Southern Methodist University in Dallas, Texas.

EXHIBIT

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**Stephen H. Thomas**  
**Prior Testimony and Publications**

In the prior four years, I have testified as an expert witness at trial in the case of:

- Kevco, Inc., et al, Debtors, Plan Administration Agent, Acting on Behalf of Kevco, Inc. Under Its Confirmed Plan, Plaintiff vs. Coastal Industries, Inc., Defendant.  
Case Nos. 401-40783-BJH-11 through 401-40790-BJH-11  
Jointly Administered Under Case No. 401-40783-BJH-11  
Adversary Proceeding No. 04-04239  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
March and April, 2005
- Gary Bradley; Bradley Beutel, Trustee of and on Behalf of the Lazarus Exempt Trust vs. Ron Ingalls  
Adversary No. 02-01205-FM  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
April 9, 2004
- Gadzooks, Inc., Debtor  
Case No. 04-31486-HDH-11  
Expedited Motion to Settle Preference and Expedited Application of the Debtor Pursuant to Section 327 of the Bankruptcy Code for Authorization to Employ and retain PricewaterhouseCoopers LLP as Auditor.  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
March 8, 2004
- Kevco, Inc., et al, Debtors, Plan Administration Agent, Acting on Behalf of Kevco, Inc. Under Its Confirmed Plan, Plaintiff vs. National Shelter Products, Inc., Defendant.  
Case Nos. 401-40783-BJH-11 through 401-40790-BJH-11  
Jointly Administered Under Case No. 401-40783-BJH-11  
Adversary Proceeding No. 03-4051  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
February 11, 2004
- Kevco, Inc., et al, Debtors, Plan Administration Agent, Acting on Behalf of Kevco, Inc. Under Its Confirmed Plan, Plaintiff vs. First Equipment Company, Defendant.  
Case Nos. 401-40783-BJH-11 through 401-40790-BJH-11  
Jointly Administered Under Case No. 401-40783-BJH-11  
Adversary Proceeding No. 03-4066  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
July 10, 2003

- Kevco, Inc., et al, Debtors, Plan Administration Agent, Acting on Behalf of Kevco, Inc. Under Its Confirmed Plan, Plaintiff vs. Color Putty Co., Inc., Defendant.  
Case Nos. 401-40783-BJH-11 through 401-40790-BJH-11  
Jointly Administered Under Case No. 401-40783-BJH-11  
Adversary Proceeding No. 03-4074  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
July 10, 2003
- Estate of Philip Anthony Schieber, Deceased; Berry Brown Advertising, Inc., Plaintiff, v. R.W. Calloway, Administrator for the Estate of Phillip Anthony Schieber, Defendant In the Probate Court No. 3 of Dallas County, Texas  
Number 00-4089-P3(A)  
September 2002
- Avante Villa of Corpus Christi, Inc., Debtor, D. Michael Boudloche, Chapter 7 Trustee for the Bankruptcy Estate of Avante Villa of Corpus Christi, Inc. vs. Avante Group, Inc., Ganot Corporation, Ron Ostroff, Harvey L. Lichtman, and Alan Kranz  
Case No. 97-25585  
Adversary No. 99-2178-C  
United States Bankruptcy Court for the Southern District of Texas  
Corpus Christi Division  
September 6, 2001
- Futures Equity, LLC, et al., Debtors  
Case No. 00-33682-BJH-11 and Case Nos.: 00-34825-BJH-11 through 00-34826-BJH-11;  
Jointly Administered Under Case No.: 00-33682-BJH-11  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division; 2000
- Mickey Luu Van, Tho, Inc., and Thang Loi, Inc. Debtors, First International Bank and Van Tho, Inc., Plaintiffs, vs. Mickey Luu, Defendant  
Case Nos. 397-38258-RCM-7, 397-38259-RCM-11, 397-38260-RCM-7,  
Administratively consolidated under Case No. 397-38258-RCM-7  
Adversary No. 398-3525  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
April 13, 1999

In the prior four years, I have testified as an expert witness by deposition in the case of:

- American Building Materials, Inc., Debtor, James Cunningham, Chapter 7 Trustee, Plaintiff. vs. Robert L. Dunn, Gem L. Dunn, RLD Investments, L.P., ABM of Austin Inc. and the Internal Revenue Service, Defendants.  
Case No. 396-36409-RCM-7  
Adversary No. 398-3667  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
March 24, 1999

Also in the prior four years, I served as the expert witness for the Court in the case of:

- James Mark Murphy, M.D., Debtor, James Mark Murphy, M.D., Individually, and as Trustee of both the James Mark Murphy, M.D., P.A. Money Purchase Pension Plan and Trust, and the James Mark Murphy, M.D., P.A. Profit Sharing Plan and Trust, Plaintiffs, vs. Gary Ben Stephens, The Stephens Group, L.P., The Stephens Group, II, L.P., and South Dallas Sand and Construction Materials, L.L.C., Defendants Case No. 397-37699-HCA-11  
Adversary No. 398-3784  
United States Bankruptcy Court for the Northern District of Texas  
Dallas Division  
1999

In the prior ten years, I have not authored any publications.

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## RESUME OF JASON F. FENSTERSTOCK

Education

1977-1980

**COLUMBIA LAW SCHOOL**  
Phi Delta Phi: Fraternity President.

New York, New York

1975-1977

**COLUMBIA UNIVERSITY GRADUATE SCHOOL OF BUSINESS**  
Beta Gamma Sigma (Honors Society).  
Dean's List, Finance/Accounting.

New York, New York

1971-1975

**BOWDOIN COLLEGE**  
Cum Laude. Economics/Government.

Brunswick, Maine

1967-1971

**THE PHILLIPS EXETER ACADEMY**

Exeter, New Hampshire

Employment

2005 to Present

**SASCO HILL ADVISORS, INC.**  
Founder—Financial Restructuring and Related Activities.

New York, New York  
Westport, Connecticut

1996-2004

**DUFF & PHELPS, LLC**  
Restructuring Services Team Leader—Managing Director.

New York, New York

2004-2005

**DILLON, READ & CO. INC.**  
Senior Vice President—Corporate Finance:  
Financial Restructuring Group (1988-96).  
Arbitrage Fund—Invested in Distressed Situations.

New York, New York

1987-1996

**SHEARSON LEHMAN BROTHERS INC.**  
Vice President—Corporate Finance:  
Financial Restructuring Group.

New York, New York

1986-1987

**SHEARMAN & STERLING**  
Associate—Corporate Reorganization  
(Bankruptcy) & Bank Finance Teams.

New York, New York

1982-1986

**WEIL, GOTSHAL & MANGES**  
Associate—Business Reorganization  
(Bankruptcy) Group. Summer Associate.

New York, New York

1980-1982

1978/1979

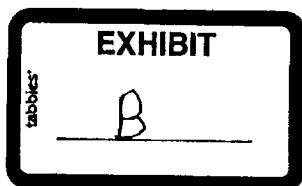
summers

Married. Daughter by prior marriage. Born in NY, NY.  
Traveled through U.S., Canada, Mexico, Caribbean, Europe,  
Middle East, Australia, South Pacific, Asia. Member—University Club.  
Sports—Tennis, Squash and Biking.

New York, New York

Address/Contacts

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Office: Ph: (212) 349-0080. E-mail: [jasfenster@aol.com](mailto:jafenster@aol.com)  
Home: Ph: (212) 349-1111  
Cell: (917) 882-7321



**JASON F. FENSTERSTOCK  
SELECTED TRANSACTIONS**

**TECHNOLOGY SERVICES COMPANY**

Engaged to assist Post-Confirmation Committee of Unsecured Creditors review bases for litigation claims against certain officers, directors and their affiliates involving potential preferential transfers, fraudulent conveyances, breach of duties, etc.

**TECHNOLOGY SERVICES COMPANY**

Engaged to assist six law firms and their clients assess merits of solvency defense in Chapter 11 preference litigation and provide business valuation and solvency analysis

**SELF-REGULATORY ORGANIZATION – SECURITIES INDUSTRY**

Engaged to advise NASD senior management on full range of alternatives, strategies, exposures relating to underperforming subsidiary stock exchange.

**PRINTING BLANKET/ENGINEERED FABRIC MANUFACTURER**

Engaged to assist holders of controlling economic interests assess management and business, negotiate with senior lender, select new CEO and explore merger/acquisition, other business development and exit strategies.

**INDUSTRIAL PROCESS EQUIPMENT SUPPLIER**

Hired as CEO of this Chapter 11 global trader of, and investor in, used and new industrial process equipment. Involved extensive headcount and other cost reductions, rebuild of finance and accounting group, overhaul of marketing and advertising programs (including redo of Web site), creation, negotiation and implementation of programs to use cash collateral with senior secured lender and Unsecured Creditors' Committee and oversight of foreign subsidiaries and activities.

**NEWSPRINT AND COATED PAPER MILL SALE**

Engaged to assist paper mill maximize profitability and cash flow to position for sale. Involved detailed work re all cost reduction and revenue enhancement opportunities; intensive negotiations with labor union and implementation of new terms of employment; negotiation of asset sale contract with domestic subsidiary of foreign company implemented thru Chapter 11 with global auction seeking higher and better offers.

**TEXTILE MANUFACTURER/DISTRIBUTOR RESTRUCTURING**

Engaged to assist with restructuring/additional financing of this manufacturer/distributor of specialty package decorations and other specialty products.

**INTERNATIONAL WIRELESS COMMUNICATIONS HOLDINGS, INC.**

Engaged by more than thirty venture capital investors to maximize their recovery from \$90+ million preferred stock investment in this bankrupt company with wireless assets in Asia and Latin America. Successfully resolved inherent conflicts within client group and obtained thru litigation a cash settlement for clients exceeding \$23 million. Strategy involved the modification of a previously confirmed plan of reorganization which would have provided no payout to the preferred stock investors.

**WHOLESALE DRUG DISTRIBUTOR**

Engaged to assist company acquire or disengage from its largest customer which was unable to service its overleveraged capital structure; collected receivable in full.

**NEWSPRINT AND COATED PAPER MILL RESTRUCTURING/REFINANCING**

Engaged to assist with restructuring of paper mill owner controlled by Dillon Read's leveraged buyout group; raised required subordinated/equity capital.

**JASON F. FENSTERSTOCK**  
**ADDITIONAL SELECTED TRANSACTIONS**

**EVERGREEN INTERNATIONAL AVIATION, INC. RESTRUCTURING/REFINANCING**

Engaged to assist Evergreen with its restructuring and recapitalization. Evergreen owns an international cargo airline, an airport ground handling/logistics company, an aircraft maintenance facility and an international multi-service helicopter company.

**BIG RIVER MINERALS CORP. RESTRUCTURING/LIQUIDATION**

Engaged to lead restructuring/liquidation of failing investment of firm's leveraged buyout group. Big River refined zinc concentrate, produced lead oxide, mined coal at leased mines and mined and processed iron ore. Sold all four businesses to separate international and domestic buyers. Advised liquidation trust on collection of notes issued by coal and iron ore purchasers and related matters.

**PRIDE COMPANIES, L.P. RESTRUCTURING/REFINANCING**

Engaged to assist Pride, an oil refiner and gatherer, with its restructuring and refinancing.

**ALPINE GROUP, INC. ACQUISITION OF ADIENCE, INC.**

Engaged to assist Alpine finance the acquisition of Adience with a \$100 million issue of high yield debt. Alpine produces copper wire and cable products for the telecommunications industry, is commercializing a proprietary flat panel display technology and is engaged in the aerospace and defense electronics industries. Adience produces and installs refractory products and is engaged in the information display market

**METALLGESELLSCHAFT CORP. RESTRUCTURING**

Engaged to assist Metallgesellschaft with its financial and business restructuring. Metallgesellschaft was involved in the refining and marketing of petroleum products, natural gas operations, financial services and other operations.

**ALPINE GROUP, INC. ACQUISITION OF SUPERIOR TELETEC, INC.**

Engaged to assist Alpine in its acquisition of Superior Teletec, Inc., to raise acquisition financing and to acquire minority interest in its flat panel display subsidiary. Superior Teletec produces copper wire and cable products for the telecommunications industry.

**SOUTHWESTERN PUBLIC SERVICE COMPANY BID FOR EL PASO ELECTRIC COMPANY**

Engaged to assist Southwestern Public Service in its bid to acquire El Paso Electric out of bankruptcy. Formulated multiple plans of reorganization and negotiated with all capital structure groups.

**EL PASO REFINERY, L.P. RESTRUCTURING**

Engaged to assist El Paso Refinery with its financial restructuring.

**TESORO PETROLEUM CORPORATION RESTRUCTURING**

Engaged to assist Tesoro with its financial restructuring and resolution of claims made by the State of Alaska based on the pricing of purchases of Alaskan North Slope crude oil.

**PHILLIPS COLLEGES INC. RESTRUCTURING**

Engaged to assist the largest U.S. chain of proprietary schools with its financial restructuring.

**DAN RIVER INC. RESTRUCTURING**

Engaged to assist this manufacturer of home fashions and apparel with its financial restructuring.

**PRICE COMMUNICATIONS CORPORATION RESTRUCTURING**

Engaged to assist this diversified media company with its financial restructuring.

**JASON F. FENSTERSTOCK**  
**ADDITIONAL SELECTED TRANSACTIONS**

**JAMES CABLE CORPORATION RESTRUCTURING**

Engaged to assist James Cable with its financial restructuring.

**MLX CORP. RESTRUCTURING**

Engaged to assist the nation's largest wholesale distributor of HVAC and refrigeration equipment with its financial restructuring.

**THE DELTONA CORPORATION SALE AND RESTRUCTURING**

Engaged to assist this Florida home builder assess a bid for the company and negotiate the terms of a capital injection by the company's largest shareholder.

**AMERICAN HAWAII CRUISES RESTRUCTURING/REFINANCING**

Engaged to assist this cruise company with the repurchase of its bank debt at a discount, the renegotiation of its subordinated debt and a refinancing.

**LABARGE, INC. RESTRUCTURING/REFINANCING**

Engaged to assist this electronics manufacturer with the refinancing of its bank debt and the purchase at a discount of its preferred stock with proceeds from new financing.

**JASON F. FENSTERSTOCK**  
**ADDITIONAL EXPERIENCE**

**SHEARSON LEHMAN BROTHERS INC. (1986-87)**

Representation of both debtors and creditors, domestic and foreign, in out-of-court restructurings and exchange offers and in Chapter 11 reorganizations. Clients included The LTV Corporation, LaBarge, Inc., Tan Sri Khoo Teck Puat in the National Bank of Brunei (Singapore), and creditors of Zapata Corporation and Allis-Chalmers Corporation.

**SHEARMAN & STERLING (1982-86)**

Representation of both debtors and creditors, domestic and foreign, in out-of-court restructurings and in Chapter 11 reorganizations. Clients included Cydsa, S.A. and Cerveceria Moctezuma, S.A. (Mexico) and creditors in Lear Fan Limited (Ireland) and Dome Petroleum Corporation (Canada). Financing documentation for leveraged buyouts and secured transactions.

**WEIL, GOTSHAL & MANGES (1980-82)**

Representation of both debtors and creditors in out-of-court restructurings and in court reorganizations and liquidations. Clients included creditors in Itel Corporation and O.P.M. Lessors, Inc., and the Trustees in John Muir and W.T. Grant.

**RICHARD A. WHALEN**  
**Managing Director**  
**Duff & Phelps, LLC**

**EDUCATION:**

1988-1990 University of Chicago - Graduate School of Business  
M.B.A. Degree with concentration in Finance and Statistics

1982-1986 University of Notre Dame  
B.B.A. Degree in Finance and Accounting

**EXPERIENCE:**

2001-present Duff & Phelps LLC – Chicago  
*Valuation Group - Managing Director*  
  
Actively involved in the selling, managing and production of a variety of valuation related projects for publicly and privately held companies. Concentration in the valuation of intellectual property for litigation, donation, planning purposes as well as purchase price allocations, including valuations of intangible assets and regulatory compliance as it relates to these types of valuation engagements.

1990-2001 PricewaterhouseCoopers LLP – Atlanta/Chicago  
*Corporate Value Consulting Group – Director*  
  
Engaged in all phases of valuation consulting including estimating value for mergers and acquisition, tax and financial reporting purposes, fairness opinions, restructuring, litigation and donation. Obtained specialization in allocations of purchase price and valuation of intangible assets, with a focus on the financial services industry. Developed curriculum and taught classes in purchase price allocations, valuations of intellectual property and other intangible assets and valuations of businesses.

1986-1989 Horizon Federal Savings Bank – Chicago  
*Direct Investments Group – Analyst*  
  
Assisted and managed accounting and finance projects associated with Bank's real estate development endeavors. Worked with general contractors in partnership with Bank.

AFFILIATIONS: Speaker on various valuation subjects to outside organizations  
Two term Alderman – City of Park Ridge – 1993 to 2001

EXHIBIT

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## **Richard A. Whalen**

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Mr. Richard Whalen is a Managing Director in the Chicago office of Duff & Phelps, LLC ("Duff & Phelps"). Prior to Duff & Phelps, Mr. Whalen had been a Director in the Corporate Value Consulting ("CVC") Practice of PricewaterhouseCoopers LLP. Mr. Whalen had been with PricewaterhouseCoopers since March 1990 in Atlanta and Chicago.

Mr. Whalen has over thirteen years of experience in the identification, valuation, and determination of the remaining life of intangible assets, including most customer, marketing, contract and technology related intangible assets. He has extensive experience in the estimation of royalty rates for and the valuations of certain forms of intellectual property, namely trade names and trademarks, proprietary processes, formulas and technology and the like. He has performed valuations of intellectual property and marketing-based intangible assets for a variety of purposes including litigation, joint venture consulting, allocation of purchase price, etc. Mr. Whalen also has over thirteen years of experience in valuing business enterprises.

Mr. Whalen has performed numerous purchase price allocations and business valuations for acquisitions of companies and has experience with SEC expectations and procedures regarding purchase price allocations and concerning the valuation of intellectual property. Mr. Whalen is well versed with current FAS 141 and 142 statements regarding business combinations and impairment testing.

Mr. Whalen holds a BBA in Finance and Accounting from the University of Notre Dame (1986) and an MBA in Finance and Statistics from the University of Chicago (1990). Mr. Whalen is a former two term Alderman for the City of Park Ridge and is presently serving on the Board of Directors of the Economic Development Corporation of Park Ridge. He is an internal and external speaker on various valuation subjects, including the valuation of intellectual property.

### **EXPERT WITNESS TESTIMONY:**

2004 *Interactive Financial Services Group, Inc. and Cheryl J. Avena, v. Perkins Coie, LLP and Albert Gidari and Jane Doe Gidari*; Washington Superior Court, Seattle, Washington